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In the Claims

Applicant requests amendment of all prior versions, and listings of claims in the application with the following list of claims:

1. To 15 (Cancelled)

16. (New) A method for separately determining the performance of the upstream and downstream paths of a cable network, the method comprising:

Transmitting from a tester, test packets, through a cable network, to a Cable Modem Termination System, wherein, the test packets contain instructions to return the test packets back to the tester,

Transmitting only the test packets that are error free from the Cable Modem Termination System, to the tester, wherein, some test packets received at the tester have errors, and some are error free as a result of the downstream path,

Bypassing the error checking in the tester for test packets with errors,

Checking the test packets with errors, in the tester, wherein, to identify test packets with errors as test packets,

Determining if the test packets were lost in either the upstream or downstream paths, based on the test packets received with and without errors,

and Determining over a measurement time period, performance test results of the upstream or downstream paths, based on the number of test packets sent by the tester compared to the number of test packets received with errors and based on the number of test packets sent by the tester compared to the number of test packets received without errors.

17. (New) The method in claim 16, wherein, the performance test results are Block Error Rate.

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18. (New) The method in claim 16, wherein, the performance test results are Lost Packets.

19. (New) The method in claim 16, wherein, the step of transmitting from the tester, transmits the test packets in the upstream channel of the cable network.

20. (New) The method in claim 16, wherein, the step of transmitting from the cable modem termination system, transmits the test packets in the downstream channel of the cable network,

21. (New) The method in claim 16, wherein, the process to check for errors is Cyclic Redundancy Check (CRC).

22. (New) The method of claim 16, wherein, the method repeats the process continuously during the measurement time period.

23. (New) The method in claim 16, wherein, the test packets contain a test pattern.

24. (New) The method in claim 23, wherein, the test packets are determined to be test packets by identifying a portion of the test pattern.

25. (New) The method in claim 23, wherein, errors in parts of the test packets are ignored if portions of the test packets contain a portion of the test pattern.

26. (New) The method in claim 16, wherein, the test packets are counted in the tester to determine if the test packets are the size of the test packets transmitted from the tester.

27. (New) The method in claim 16, wherein, the test packets contain an address of a destination other than the Cable Modem Termination System.

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28. (New) The method in claim 27, wherein, the step of transmitting the test packets from the Cable Modem Termination System, the test packets are transmitted to the tester via the destination.